In the High Court of Punjab and Haryana at Chandigarh

C.E.A. No. 162 of 2005

Date of Decision: 1.3.2007

Commissioner of Central Excise, Ludhiana

…Appellant

Versus

M/s Bharat Box Factory Ltd.

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. A.K. Sharma, Advocate, for

for the appellant.

Mr. Girish Agnihotri, Advocate,

for the respondent.

JUDGMENT

M.M. KUMAR, J.

This appeal filed under Section 35-G of the Central Excise Act, 1944, is directed against the order dated 7.10.2004 (P-4), passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi. The revenue has claimed that the following question of law would arise for determination of this Court:-

> "Whether post-clearance adjustment like issuance of credit notes by the assessee who is claiming refund, to buyers of the goods, taking back the burden of duty on the goods would help the assessee t get over the bar of

unjust enrichment under Section 11B of the Central Excise Act, 1944?"

There are categorical findings recorded by the Tribunal that the question of just enrichment would not arise from the facts of this case. From perusal of para 6 of the order of the Tribunal it clearly emerges that the assessee did not receive higher duty amount or price from the buyers and no amount of duty was passed on to the customers. Therefore, no question of unjust enrichment within the meaning of Section 11B of the Act would arise. Even otherwise the total amount involved in the present case is Rs. 14,924/- which is a paltry sum. Therefore, no question of law much less substantial question of law would arise for our determination. The appeal is without any merit and the same is accordingly dismissed.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

March 1, 2007

Pkapoor